

Testimony in Support of HB724 – FAVORABLE
Access to Counsel in Evictions Special Fund – Funding
Before the Judiciary Committee – February 16, 2022

House Bill 724, cross-filed as Senate Bill 662, will help Maryland effectuate the Access to Counsel in eviction proceedings that the General Assembly passed through House Bill 18 in 2021. The bill would transfer \$11.8 million from the Abandoned Property Fund to the Access to Counsel in Evictions Fund in FY 2023. Many Marylanders are facing eviction and the need for legal representation continues to increase; therefore, funding the Access to Counsel program should be a priority. Without sufficient funding, the program will not be able to reach its full potential, and inevitably many Marylanders who face unwarranted evictions will be without legal representation. Eviction defense is an effective public health measure, proven to prevent disruptive displacement of individuals and families and bring cohesion to communities. House Bill 724 is critical to implementing the Access to Counsel program and it is worth repeating why House Bill 18, which created the program, was passed last session.

Eviction Has Long-Lasting and Significant Health Impacts on Individuals and Families

Housing stability and health are directly correlated—a stable home is a basis for a healthy life. Many organizations, including the World Health Organization and the Centers for Disease Control and Prevention, recognize that housing is a “social determinant of health,”¹ meaning where you live plays a role in your health and longevity. Housing instability comes with long-lasting and significant damaging health consequences to individuals and families. Adults who face eviction are more likely to report symptoms of poor health, such as high blood pressure, depression, anxiety, and psychological distress.² Children in families that encounter eviction are also more likely to experience poor health, a higher prevalence of food insecurity, and worse educational outcomes than other low-income children.³ Moreover, young adults who have

¹ Centers for Disease Control and Prevention, *Social Determinants of Health: Know What Affects Health*, <https://www.cdc.gov/socialdeterminants/index.htm>.

² Allison Bovell-Amman, *The Hidden Health Crisis of Eviction*, BOSTON UNIV. SCHOOL OF PUB. HEALTH (Oct. 5, 2018), <https://www.bu.edu/sph/news/articles/2018/the-hidden-health-crisis-of-eviction/>.

³ Gracie Himmelstein & Matthew Desmond, *Eviction and Health: A Vicious Cycle Exacerbated By A Pandemic*, HEALTH AFFAIRS (Apr. 1, 2021), <https://www.healthaffairs.org/doi/10.1377/hpb20210315.747908/full/>.

experienced eviction are at higher risk of teen pregnancy, drug use, and depression.⁴ Eviction also directly impacts the health and social connectedness of communities—frequent moves cause individuals to feel less invested in their communities, homes, and social relationships.⁵

The ramifications of an eviction continue over time and eventually into all aspects of an individual's life.⁶ An eviction record can create economic hardships and health problems. Its consequences are like having a criminal record—an eviction record remains public for seven years and remains visible to landlords, rental agencies, and potential employers during the screening process. Thus, it is difficult for individuals to find subsequent housing and jobs.⁷ The working poor often lose their jobs because of eviction⁸ and, once unemployed, have difficulty finding new jobs, particularly without a stable address. After displacement, families often end up moving to lower-quality homes, unsafe conditions, and into neighborhoods with higher rates of poverty and crime.⁹ Consequently, because eviction is so detrimental to individuals and Maryland communities, it should be avoided whenever there are other viable options.

Legal Representation in Eviction Proceedings Reduces Eviction Rates

The average tenant is unprepared and often unaware of how to advocate for themselves or assert valid defenses, and without legal representation most tenants lose their case and face eviction.¹⁰ Last year, Maryland took an important step to address this issue and became one of three states that have access to counsel. Earlier this year, New York introduced a statewide bill that provides access to counsel in eviction proceedings. Additionally, at least sixteen local jurisdictions have a right to counsel for tenants, including Kansas City, Minneapolis, Toledo, and Louisville.

⁴ Lauren Taylor, *Housing and Health: An Overview of The Literature*, HEALTH AFFAIRS (June 7, 2018), <https://www.healthaffairs.org/doi/10.1377/hpb20180313.396577/>.

⁵ Katie Moran-McCabe & Scott Burris, *Eviction and the Necessary Conditions for Health*, NEW ENGLAND J. OF MED. (Oct. 14, 2021), <https://www.nejm.org/doi/full/10.1056/NEJMp2031947>.

⁶ Kristin Ginger, *Eviction Filings Hurt Tenants, Even If They Win*, SHELTER FORCE (July 30, 2018), <https://shelterforce.org/2018/07/30/eviction-filings-hurt-tenants-even-if-they-win/>.

⁷ Jake Blumgart, *To Reduce Unfair Evictions, Tenants Need Lawyers*, PLAN PHILLY (Mar. 16, 2017), <https://why.org/articles/to-reduce-unfair-evictions-tenants-need-lawyers/>.

⁸ *Housing Instability Increases Likelihood of Job Loss*, NAT'L LOW INCOME HOUSING COAL. (Feb. 20, 2018), <https://nlihc.org/resource/housing-instability-increases-likelihood-job-loss>, summarizing Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity among the Working Poor*, SOC. PROBS. (Jan. 11, 2016), <https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824>.

⁹ Heidi Schultheis & Caitlin Rooney, *A Right to Counsel is a Right to a Fighting Chance*, CTR. AM. PROGRESS (Oct. 2, 2019), <https://www.americanprogress.org/article/right-counsel-right-fighting-chance/>.

¹⁰ Schultheis & Rooney, *supra* note 9.

Research shows that one of the ways to reduce evictions for low-income tenants is to level the playing field between tenants and landlords—guaranteeing legal representation for tenants.¹¹ In 2020, one study found that 92% of tenants were able to prevent disruptive displacement when they had legal representation.¹² After New York City passed access to counsel, 100% of tenants who had scheduled eviction cases had full access to legal services, and 84% of tenants were able to stay in their homes.¹³ In Cleveland, 93% of tenants represented by legal counsel avoided eviction or involuntary moves, and 83% who were seeking additional time to move were able to do so.¹⁴ Additionally, in San Francisco, 59% of tenants represented by legal counsel were able to remain in their homes.¹⁵ Even in situations where eviction is warranted, attorneys are still able to mitigate the impacts of eviction. An attorney may be able to keep eviction filings off tenants’ records, negotiate for more time for tenants to move out, help tenants apply for rental assistance, or reduce the amount of money owed to a landlord.¹⁶ These kinds of interventions by attorneys are critical to ensuring that tenants may be able to secure healthy, safe housing later.

House Bill 724 is Necessary for Implementation of the Access to Counsel Program

You acknowledged the need for access to counsel in eviction proceedings last year and that need has only grown since. Maryland’s legal services providers are unable to keep up with the current demand for legal representation.¹⁷ Funding Maryland’s new Access to Counsel in Evictions Special Funds is necessary to fully implement the program throughout Maryland and keep pace with the demand for legal representation. Although there are concerns about the cost of implementation, the program will result in substantial savings for the State. In passing House Bill 18, the General Assembly recognized that evictions create significant costs to the State—

¹¹ Schultheis & Rooney, *supra* note 9.

¹² *Access to Counsel Funding*, RENTERS UNITED MARYLAND (Jan. 31, 2022), <http://rentersunitedmaryland.org/housing-justice-22/>.

¹³ Office of Civil Justice, *Universal Access to Legal Services*, NYC.GOV (2021), https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2021.pdf.

¹⁴ *Right to Counsel, Free Eviction Help*, THE LEGAL AID SOC’Y OF CLEVELAND (Jan. 31, 2021), <https://lascliev.org/wp-content/uploads/January-2021-report-on-initial-6-months-of-Right-to-Counsel-Cleveland-high-res.pdf>.

¹⁵ *All about the Right to Counsel for Tenants in San Francisco*, NAT’L COAL. CIV. RT. COUNS. (Feb. 3, 2022), http://civilrighttocounsel.org/major_developments/1179.

¹⁶ Schultheis & Rooney, *supra* note 9; *see All About the Right to Counsel for Tenants in San Francisco*, *supra* note 15 (finding that of the 30% who did not remain in their homes, 70% of the tenants received favorable settlements).

¹⁷ *Access to Counsel Funding*, *supra* note 12.

including emergency shelters, temporary housing, mental health care, transportation costs, foster care, and costs associated with children changing schools. These costs could be avoided by fully funding and implementing the Access to Counsel program.

The Maryland Access to Counsel in Evictions Task Force reported that about \$12 million in funding for fiscal year 2023 is required for the program to realize its full impact.¹⁸ Many states and cities have recognized the importance of funding access to counsel programs to begin helping tenants; however, Maryland is one of the very few states that have not yet determined a funding source.¹⁹ Although most states are relying on federal funds to get access to counsel programs started, others have also supplemented federal funding and attempted to create additional, new funding sources.²⁰ House Bill 724 would provide enough to start up the Access to Counsel program and the State could also begin to appreciate the long-term value of funding access to counsel. Having decided last year that access to counsel for tenants is a priority, it is time for the State to ensure the program's success by seeking all viable sources of funding to put House Bill 18 into effect. House Bill 724 is one step in the right direction.

Conclusion

“Without access to justice, the promise of equal justice rings hollow.”²¹ Maryland took the critical step to provide tenants with access to counsel; however, the program cannot be fully implemented and reach its full potential without sufficient funding. Eviction leaves tenants and families with long-lasting and significant negative health impacts. Eviction generates avoidable costs for the State. Providing legal representation can avoid unwarranted evictions and result in positive outcomes for Maryland tenants. House Bill 724 is an important step towards providing an additional funding source and most importantly, helping many Maryland families avoid disruptive displacement in eviction cases.

¹⁸ Reena K. Shah, *It's Time to Fund the Access to Counsel in Eviction Fund*, THE DAILY REC. (Jan. 12, 2022), <https://thedailyrecord.com/2022/01/12/its-time-to-fund-the-access-to-counsel-in-eviction-law/>.

¹⁹ *The Right to Counsel for Tenants Facing Eviction: Enacted Legislation*, NAT'L COAL. CIV. RT. COUNS (Jan. 2022), http://civilrighttocounsel.org/uploaded_files/283/RTC_Enacted_Legislation_in_Eviction_Proceedings_FINAL.pdf.

²⁰ For example, in Boulder, the city is funding the right to counsel through a new rental licensing excise tax of \$75 per year per licensed unit. Shelby R. King, *Right to Counsel Movement Gains Traction*, SHELTERFORCE (July 16, 2021), <https://shelterforce.org/2021/07/16/right-to-counsel-movement-gains-traction/>.

²¹ *Attorney General Merrick B. Garland Delivers Remarks at the White House—Justice Department Convening with Law Schools: A Call to Action for Access to Justice*, DEP'T OF JUST. (Jan. 28, 2022), <https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-white-house-justice-department>.

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